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Legislative History – Montana Session Law

Chapter: 386 Session L: 2003

Bill Number: HB 222

Checklist of Bill History

History and Final Status Sheet	☑
Introduced Bill	☑
Fiscal Note	☑
Third Reading Bill	☐
Final Version of Bill	☐

House	**Senate**
Committee: Judiciary	Committee: Judiciary
Hearing Date(s): 1/21/2003	Hearing Date(s): 3/13/2003
Committee Report: 2/14/2003	Committee Report: 3/20/2003

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 2/20/2025

Notes: Audio/Video recordings will be held by the Montana Historical Society

Thank you!

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
04/18/03	Chapter Number Assigned				
04/17/03	(H) Signed by Governor				
04/11/03	(H) Transmitted to Governor				
04/10/03	(S) Signed by President				
04/10/03	(H) Signed by Speaker				
04/09/03	(H) Returned from Enrolling				
04/09/03	(C) Printed - New Version Available				
04/08/03	(H) Sent to Enrolling				
04/08/03	(H) 3rd Reading Passed as Amended by Senate		98	2	
04/08/03	(H) Scheduled for 3rd Reading				
04/07/03	(H) 2nd Reading Senate Amendments Concurred		96	1	
04/07/03	(H) Scheduled for 2nd Reading				
03/26/03	(S) Returned to House with Amendments				
03/26/03	(S) 3rd Reading Concurred		50	0	
03/26/03	(S) Scheduled for 3rd Reading				
03/25/03	(S) 2nd Reading Concurred on Voice Vote		50	0	
03/25/03	(S) Scheduled for 2nd Reading				
03/24/03	(S) Scheduled for 2nd Reading				
03/21/03	(C) Printed - New Version Available				
03/21/03	(S) Committee Report--Bill Concurred as Amended	(S) Judiciary			
03/21/03	(S) Committee Executive Action--Bill Concurred as Amended	(S) Judiciary	9	0	
03/13/03	(S) Hearing	(S) Judiciary			
02/26/03	(S) Referred to Committee	(S) Judiciary			
02/26/03	(S) First Reading				
02/24/03	(H) Transmitted to Senate				
02/24/03	(H) 3rd Reading Passed		99	0	
02/24/03	(H) Scheduled for 3rd Reading				
02/22/03	(H) 2nd Reading Passed		96	1	
02/22/03	(H) Scheduled for 2nd Reading				
02/21/03	(H) Revised Fiscal Note Printed				
02/20/03	(H) Revised Fiscal Note Received				

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
02/19/03	(H) Revised Fiscal Note Requested				
02/18/03	(C) Printed - New Version Available				
02/18/03	(H) Committee Report--Bill Passed as Amended	(H) Judiciary			
02/14/03	(H) Committee Executive Action--Bill Passed as Amended	(H) Judiciary	17	0	
01/21/03	(H) Hearing	(H) Judiciary			
01/14/03	(H) Fiscal Note Printed				
01/10/03	(H) Fiscal Note Received		0		
01/06/03	(H) First Reading				
01/03/03	(H) Referred to Committee	(H) Judiciary			
01/02/03	(H) Fiscal Note Requested				
12/27/02	(C) Introduced Bill Text Available Electronically				
12/27/02	(H) Introduced				
12/27/02	(C) Pre-Introduction Letter Sent				
12/23/02	(C) Pre-Introduction Letter Sent				
12/23/02	(C) Draft in Assembly/Executive Director Review				
12/23/02	(C) Draft in Final Drafter Review				
12/19/02	(C) Bill Draft Text Available Electronically				
12/19/02	(C) Draft in Input/Proofing				
12/19/02	(C) Draft to Drafter - Edit Review [SAB]				
12/19/02	(C) Draft in Edit				
12/19/02	(C) Draft in Legal Review				
12/02/02	(C) Draft to Requester for Review				
11/13/02	(C) Draft to Requester for Review				
06/03/02	(C) Draft Request Received				

AN ACT ALLOWING A JUDGE WHO REVOKES A SENTENCE SUSPENSION TO IMPOSE ANY SENTENCE THAT COULD HAVE BEEN IMPOSED THAT IS NOT LONGER THAN THE ORIGINAL SENTENCE; IMPOSING A SUPERVISORY FEE ON PERSONS SUPERVISED BY THE DEPARTMENT OF CORRECTIONS UNDER INTENSIVE SUPERVISION OR CONDITIONAL RELEASE OR TRANSFERRING THEIR SUPERVISION TO ANOTHER STATE; PROVIDING A PROCEDURE FOR SUSPENDING ALL OR PART OF THE REMAINING IMPRISONMENT SENTENCE OF A PERSON WHO SUCCESSFULLY COMPLETES THE STATE BOOT CAMP; GIVING PROBATION AND PAROLE OFFICERS AUTHORITY TO DETAIN A PERSON UNDER LIMITED CIRCUMSTANCES AND TO TURN THE PERSON OVER TO A LAW ENFORCEMENT AGENCY OR PEACE OFFICER; AMENDING SECTIONS 46-18-203, 46-23-1031, AND 53-30-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence or any condition of a deferred imposition of sentence, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court during the period of suspension or deferral. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay, the offender must be brought before the judge, and the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified, unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence. However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any ~~lesser~~ sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time and either expressly allow all or part of the time as a credit against the sentence or reject all or part of the time as a credit. The judge shall state the reasons for the judge's determination in the order. Credit~~, however,~~ must be allowed for time served in a detention center or home arrest time already served.

(c) If a judge finds that an offender has not violated a term or condition of a suspended or deferred sentence, that judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released."

Section 2. Section 46-23-1031, MCA, is amended to read:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection (1)(b), a probationer, ~~or~~ parolee, or person committed to the department who is supervised by the department under intensive supervision or conditional release shall pay to the clerk of the district court that has jurisdiction over the person during the person's supervision a supervisory fee of no less than $120 a year and no more than $360 a year, prorated at no less than $10 a month for the number of months under supervision. A person allowed to transfer supervision to another state shall pay a fee of $50 to cover the cost of processing the transfer. The ~~fee~~ interstate transfer fees required by this subsection must be collected by the ~~clerk of the district court with jurisdiction during the probationer's or parolee's period of supervision under this part~~ department.

(b) The court, department, or ~~the~~ board may reduce or waive ~~the~~ a fee required by subsection (1)(a) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the ~~probationer or parolee~~ person a significant financial hardship.

(2) (a) There is an account in the state special revenue fund for the supervisory fees collected under the provisions of this section.

(b) ~~(i) Prior to July 1, 2003, district court clerks~~ Prior to July 1, 2003, district court clerks shall deduct from the total supervisory fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the remaining amount into the state special revenue account established in subsection (2)(a). After June 30, 2003, district court clerks shall deposit the total supervisory fees collected pursuant to subsection (1) into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator.

~~(ii) After June 30, 2003, district court clerks shall deposit the fees into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator.~~"

Section 3. Section 53-30-402, MCA, is amended to read:

"53-30-402. ~~Sentence reduction for offenders~~ Completion of boot camp -- suspension of sentence. A sentencing court retains jurisdiction for purposes of this section. ~~A sentencing court may order a~~

~~reduction of sentence for a convicted offender who:~~

~~(1) is certified by the department as having successfully completed the boot camp incarceration program; and~~

~~(2) applies to the court within 1 year after beginning to serve a sentence at a correctional institution.~~ At the time of sentencing, the sentencing court may order that if the convicted person successfully completes the boot camp incarceration program:

(1) the court will consider a petition from the person, after which the court may suspend all or part of the remainder of the person's sentence of imprisonment; or

(2) a part or all of the remainder of the person's sentence of imprisonment, as determined by the court at the time of sentencing, is automatically suspended on conditions imposed by the court at the time of sentencing."

Section 4. Arrest by probation and parole officer. A probation and parole officer who, while in the course of conducting the officer's duties, has a reasonable suspicion that a person is interfering or will interfere with the officer's duties or has probable cause to believe that the person is committing or has committed an offense may detain the person. The probation and parole officer shall immediately notify the nearest available law enforcement agency or peace officer, and the law enforcement agency or peace officer shall either take the person into custody or release the person.

Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 46, chapter 6, part 5, and the provisions of Title 46 apply to [section 4].

Section 6. Coordination instruction. If House Bill No. 29 and [this act] are both passed and approved, then [section 1 of House Bill No. 29], amending 53-30-402, is void.

Section 7. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

HB 0222, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____ day

of _____, 2019.

_____

President of the Senate

Signed this _____ day

of _____, 2019.

HOUSE BILL NO. 222

INTRODUCED BY PARKER

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

AN ACT ALLOWING A JUDGE WHO REVOKES A SENTENCE SUSPENSION TO IMPOSE ANY SENTENCE THAT COULD HAVE BEEN IMPOSED THAT IS NOT LONGER THAN THE ORIGINAL SENTENCE; IMPOSING A SUPERVISORY FEE ON PERSONS SUPERVISED BY THE DEPARTMENT OF CORRECTIONS UNDER INTENSIVE SUPERVISION OR CONDITIONAL RELEASE OR TRANSFERRING THEIR SUPERVISION TO ANOTHER STATE; PROVIDING A PROCEDURE FOR SUSPENDING ALL OR PART OF THE REMAINING IMPRISONMENT SENTENCE OF A PERSON WHO SUCCESSFULLY COMPLETES THE STATE BOOT CAMP; GIVING PROBATION AND PAROLE OFFICERS AUTHORITY TO DETAIN A PERSON UNDER LIMITED CIRCUMSTANCES AND TO TURN THE PERSON OVER TO A LAW ENFORCEMENT AGENCY OR PEACE OFFICER; AMENDING SECTIONS 46-18-203, 46-23-1031, AND 53-30-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

FISCAL NOTE

Bill #: HB0222 **Title:** DOC sentencing revisions -- revise suspended sentence laws

Primary Sponsor: Parker, J **Status:** As Amended in House Committee

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	$0	$0
Revenue:		
General Fund	$0	$0
State Special Revenue	$27,500	$27,500
Net Impact on General Fund Balance:	$0	$0

☐ Significant Local Gov. Impact ☐ Technical Concerns

☐ Included in the Executive Budget ☐ Significant Long-Term Impacts

☐ Dedicated Revenue Form Attached ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Corrections (Program 02)

1. Offenders would pay $50 for each request for interstate transfers. During FY 2002 a total of 550 requests were submitted. If this number were to hold true for the next two fiscal years that would equate to $27,500 per year.
2. Revenue would be recorded in the current state special revenue Supervision Fee account.

FISCAL IMPACT:

Department of Corrections (Program 02)

	FY 2004 Difference	FY 2005 Difference
Revenues:		
State Special Revenue (02)	27,500	27,500
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
State Special Revenue (02)	27,500	27,500

HOUSE BILL NO. 222

INTRODUCED BY J. PARKER

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING FROM LOCAL GOVERNMENT USE TO USE BY THE DEPARTMENT OF CORRECTIONS THE FEES IMPOSED ON PROBATIONERS AND PAROLEES FOR THEIR SUPERVISION; REQUIRING A CONVICTED PERSON TO PAY A FEE TO COVER THE COSTS OF PRODUCING A PRESENTENCE INVESTIGATION REPORT; ALLOWING A JUDGE WHO REVOKES A SENTENCE SUSPENSION TO IMPOSE ANY SENTENCE THAT COULD HAVE BEEN IMPOSED THAT IS NOT LONGER THAN THE ORIGINAL SENTENCE; IMPOSING A SUPERVISORY FEE ON PERSONS SUPERVISED BY THE DEPARTMENT OF CORRECTIONS UNDER INTENSIVE SUPERVISION OR CONDITIONAL RELEASE OR TRANSFERRING THEIR SUPERVISION TO ANOTHER STATE; PROVIDING THAT IF A PERSON SUCCESSFULLY COMPLETES BOOT CAMP, THE REMAINDER OF A SENTENCE OF IMPRISONMENT IS REPLACED WITH CONDITIONAL PROBATION; GIVING PROBATION AND PAROLE OFFICERS THE SAME POWER TO ARREST AS PRIVATE CITIZENS HAVE; AMENDING SECTIONS 15-1-121, 46-18-111, 46-18-203, 46-23-1031, AND 53-30-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- appropriation. (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle and boat taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

(iii) 25-1-1103;

(iv) 25-9-506;

(v) 25-9-804; and

(vi) 27-9-103;

(e) certificate of ownership fees for manufactured homes pursuant to 15-1-116;

(f) financial institution taxes pursuant to Title 15, chapter 31, part 7;

(g) coal severance taxes allocated for county land planning pursuant to 15-35-108;

(h) all beer, liquor, and wine taxes pursuant to:

(i) 16-1-404;

(ii) 16-1-406; and

(iii) 16-1-411;

(i) late filing fees pursuant to 61-3-201;

(j) title and registration fees pursuant to 61-3-203;

(k) disabled veterans' flat license plate fees and purple heart license plate fees pursuant to 61-3-332;

(l) county personalized license plate fees pursuant to 61-3-406;

(m) special mobile equipment fees pursuant to 61-3-431;

(n) single movement permit fees pursuant to 61-4-310;

(o) state aeronautics fees pursuant to 67-3-101; and

(p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,

chapter 1, part 5.

(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.

(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.

(3) (a) Beginning with fiscal year 2002 and in each succeeding fiscal year, the base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. For fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2004, by October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

(i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 ~~and the probation and parole fee in 46-23-1031(2)(b)~~.

(ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).

(iii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in

subsection (3)(a)(iii)(A).

(b) (i) For fiscal year 2004 and subsequent fiscal years, the entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis beginning September 15, 2001.

(b) (i) For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base year component. For fiscal year 2003 and each succeeding fiscal year, the growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool.

(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must

be subtracted from each county government's distribution from the entitlement share pool.

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - # 2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

(c) The entitlement share for industrial tax increment financing districts is as follows:

(i) for fiscal years 2002 and 2003:

Missoula County	Airport Industrial	$4,812
Silver Bow	Ramsay Industrial	597,594;

(ii) for fiscal years 2004 and 2005:

Missoula	County Airport Industrial	$2,406
Silver Bow	Ramsay Industrial	298,797; and

(iii) $0 for all succeeding fiscal years.

(d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c) may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the

tax increment financing industrial district.

(e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other half must be made in December of each year.

(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.

(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.

(9) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.

(b) For the purposes of subsection (9)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

(10) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

(11) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(12) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211."

Section 2. Section 46-18-111, MCA, is amended to read:

"46-18-111. Presentence investigation -- when required. (1) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. <u>The district court shall order the offender to pay a $50 presentence investigation report fee to the department of corrections unless the judge finds that the offender cannot pay the fee. The department may use the fee to help cover the cost of producing the report.</u> The district court shall

consider the presentence investigation report prior to sentencing. If the ~~defendant~~ offender was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, or 45-5-627, the investigation must include a psychosexual evaluation of the ~~defendant~~ offender and a recommendation as to treatment of the ~~defendant~~ offender in the least restrictive environment, considering the risk the ~~defendant~~ offender presents to the community and the ~~defendant's~~ offender's needs, unless the ~~defendant~~ offender was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the ~~defendant~~ offender. If the ~~defendant~~ offender is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(2) The court shall order a presentence report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, ~~a defendant~~ an offender convicted of ~~any~~ a felony offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for ~~a defendant~~ an offender convicted of a misdemeanor only if the ~~defendant~~ offender was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502."

Section 3. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence or any condition of a deferred imposition of sentence, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court during the period of suspension or deferral. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested

pursuant to this section.

(4) Without unnecessary delay, the offender must be brought before the judge, and the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified, unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence. However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any ~~lesser~~ sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time and either expressly allow all or part of the time as a credit against the sentence or reject all or part of the time as a credit. The judge shall state the reasons for the judge's determination in the order. Credit~~, however,~~ must be allowed for time served in a detention center or home arrest time already served.

(c) If a judge finds that an offender has not violated a term or condition of a suspended or deferred sentence, that judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released."

Section 4. Section 46-23-1031, MCA, is amended to read:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection (1)(b), a probationer, ~~or~~ parolee, or person committed to the department who is supervised by the department under intensive supervision or conditional release shall pay a supervisory fee of no less than $120 a year and no more than $360 a year, prorated at no less than $10 a month for the number of months under supervision. A person allowed to transfer supervision to another state shall pay a fee of $50 to cover the cost of processing the transfer. The ~~fee~~ fees required by this subsection must be collected by the ~~clerk of the district court with jurisdiction during the probationer's or parolee's period of supervision under this part~~ department.

(b) The court, department, or ~~the~~ board may reduce or waive ~~the~~ a fee required by subsection (1)(a) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the ~~probationer or parolee~~ person a significant financial hardship.

(2) (a) There is an account in the state special revenue fund for the fees collected under the provisions of this section.

(b) ~~(i) Prior to July 1, 2003, district court clerks~~ The department shall deduct from the total fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the remaining amount into the state special revenue account established in subsection (2)(a).

~~(ii) After June 30, 2003, district court clerks shall deposit the fees into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator.~~"

Section 5. Section 53-30-402, MCA, is amended to read:

"53-30-402. ~~Sentence reduction for offenders~~ Completion of boot camp -- suspension of sentence. A sentencing court retains jurisdiction for purposes of this section. ~~A sentencing court may order a reduction of sentence for a convicted~~ If an offender ~~who:~~

~~(1)~~ is certified by the department as having successfully completed the boot camp incarceration program~~;~~

~~and~~

~~(2) applies to the court within 1 year after beginning to serve a sentence at a correctional institution~~, the sentencing court shall suspend any remaining sentence of imprisonment, place the offender on probation during the suspended portion of the sentence of imprisonment, and impose conditions on the suspension."

NEW SECTION. **Section 6. Arrest by probation and parole officer.** A probation and parole officer may arrest a person when there is probable cause to believe that the person is committing or has committed an offense and that the existing circumstances require the person's immediate arrest. The probation and parole officer shall immediately notify the nearest available law enforcement agency or peace officer and give custody of the person arrested to the officer or agency.

NEW SECTION. **Section 7. Codification instruction.** [Section 6] is intended to be codified as an integral part of Title 46, chapter 6, part 5, and the provisions of Title 46 apply to [section 6].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 222

INTRODUCED BY PARKER

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT ~~TRANSFERRING FROM LOCAL GOVERNMENT USE TO USE BY THE DEPARTMENT OF CORRECTIONS THE FEES IMPOSED ON PROBATIONERS AND PAROLEES FOR THEIR SUPERVISION; REQUIRING A CONVICTED PERSON TO PAY A FEE TO COVER THE COSTS OF PRODUCING A PRESENTENCE INVESTIGATION REPORT;~~ ALLOWING A JUDGE WHO REVOKES A SENTENCE SUSPENSION TO IMPOSE ANY SENTENCE THAT COULD HAVE BEEN IMPOSED THAT IS NOT LONGER THAN THE ORIGINAL SENTENCE; IMPOSING A SUPERVISORY FEE ON PERSONS SUPERVISED BY THE DEPARTMENT OF CORRECTIONS UNDER INTENSIVE SUPERVISION OR CONDITIONAL RELEASE OR TRANSFERRING THEIR SUPERVISION TO ANOTHER STATE; PROVIDING ~~THAT IF A PERSON SUCCESSFULLY COMPLETES BOOT CAMP, THE REMAINDER OF A SENTENCE OF IMPRISONMENT IS REPLACED WITH CONDITIONAL PROBATION; GIVING PROBATION AND PAROLE OFFICERS THE SAME POWER TO ARREST AS PRIVATE CITIZENS HAVE~~ A PROCEDURE FOR SUSPENDING ALL OR PART OF THE REMAINING IMPRISONMENT SENTENCE OF A PERSON WHO SUCCESSFULLY COMPLETES THE STATE BOOT CAMP; GIVING PROBATION AND PAROLE OFFICERS AUTHORITY TO DETAIN A PERSON UNDER LIMITED CIRCUMSTANCES AND TO TURN THE PERSON OVER TO A LAW ENFORCEMENT AGENCY OR PEACE OFFICER; AMENDING SECTIONS ~~15-1-121, 46-18-111,~~ 46-18-203, 46-23-1031, AND 53-30-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~**Section 1.** Section 15-1-121, MCA, is amended to read:~~

~~**"15-1-121. Entitlement share payment -- appropriation.** (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:~~

~~(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;~~

~~(b) vehicle and boat taxes and fees pursuant to:~~

~~(i) Title 23, chapter 2, part 5;~~

~~(ii) Title 23, chapter 2, part 6;~~

~~(iii) Title 23, chapter 2, part 8;~~

~~(iv) 61-3-317;~~

~~(v) 61-3-321;~~

~~(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;~~

~~(vii) Title 61, chapter 3, part 7;~~

~~(viii) 5% of the fees collected under 61-10-122;~~

~~(ix) 61-10-130;~~

~~(x) 61-10-148; and~~

~~(xi) 67-3-205;~~

~~(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);~~

~~(d) district court fees pursuant to:~~

~~(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);~~

~~(ii) 25-1-202;~~

~~(iii) 25-1-1103;~~

~~(iv) 25-9-506;~~

~~(v) 25-9-804; and~~

~~(vi) 27-9-103;~~

~~(e) certificate of ownership fees for manufactured homes pursuant to 15-1-116;~~

~~(f) financial institution taxes pursuant to Title 15, chapter 31, part 7;~~

~~(g) coal severance taxes allocated for county land planning pursuant to 15-35-108;~~

~~(h) all beer, liquor, and wine taxes pursuant to:~~

~~(i) 16-1-404;~~

~~(ii) 16-1-406; and~~

~~(iii) 16-1-411;~~

~~(i) late filing fees pursuant to 61-3-201;~~

~~(j) title and registration fees pursuant to 61-3-203;~~

~~(k) disabled veterans' flat license plate fees and purple heart license plate fees pursuant to 61-3-332;~~

~~(l) county personalized license plate fees pursuant to 61-3-406;~~

~~(m) special mobile equipment fees pursuant to 61-3-431;~~

~~(n) single movement permit fees pursuant to 61-4-310;~~

~~(o) state aeronautics fees pursuant to 67-3-101; and~~

~~(p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.~~

~~(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.~~

~~(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.~~

~~(3) (a) Beginning with fiscal year 2002 and in each succeeding fiscal year, the base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. For fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2004, by October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:~~

~~(i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the probation and parole fee in 46-23-1031(2)(b).~~

~~(ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:~~

~~(A) the last 4 calendar years for which the information has been published; and~~

~~(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).~~

~~(iii) The department shall calculate the average annual growth rate of Montana personal income, as~~

~~published by the bureau of economic analysis of the United States department of commerce, for the following periods:~~

~~(A) the last 4 calendar years for which the information has been published; and~~

~~(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(iii)(A).~~

~~(b) (i) For fiscal year 2004 and subsequent fiscal years, the entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):~~

~~(A) for counties, 54%;~~

~~(B) for consolidated local governments, 62%; and~~

~~(C) for incorporated cities and towns, 70%.~~

~~(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):~~

~~(A) for counties, 54%;~~

~~(B) for consolidated local governments, 62%; and~~

~~(C) for incorporated cities and towns, 70%.~~

~~(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).~~

~~(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis beginning September 15, 2001.~~

~~(b) (i) For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base~~

~~year component. For fiscal year 2003 and each succeeding fiscal year, the growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:~~

~~(A) counties;~~

~~(B) consolidated local governments; and~~

~~(C) incorporated cities and towns.~~

~~(ii) In each fiscal year, the growth amount for counties must be allocated as follows:~~

~~(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and~~

~~(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.~~

~~(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:~~

~~(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and~~

~~(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.~~

~~(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:~~

~~(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and~~

~~(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.~~

~~(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the~~

~~prior fiscal year.~~

~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool.~~

~~(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must be subtracted from each county government's distribution from the entitlement share pool.~~

~~(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.~~

~~(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:~~

~~Cascade~~	~~Great Falls - downtown~~	~~$468,966~~
~~Deer Lodge~~	~~TIF District 1~~	~~3,148~~
~~Deer Lodge~~	~~TIF District 2~~	~~3,126~~
~~Flathead~~	~~Kalispell - District 1~~	~~758,359~~
~~Flathead~~	~~Kalispell - District 2~~	~~5,153~~
~~Flathead~~	~~Kalispell - District 3~~	~~41,368~~
~~Flathead~~	~~Whitefish District~~	~~164,660~~
~~Gallatin~~	~~Bozeman - downtown~~	~~34,620~~
~~Lewis and Clark~~	~~Helena - # 2~~	~~731,614~~
~~Missoula~~	~~Missoula - 1-1B & 1-1C~~	~~1,100,507~~
~~Missoula~~	~~Missoula - 4-1C~~	~~33,343~~
~~Silver Bow~~	~~Butte - uptown~~	~~283,801~~
~~Yellowstone~~	~~Billings~~	~~436,815~~

~~(c) The entitlement share for industrial tax increment financing districts is as follows:~~

~~(i) for fiscal years 2002 and 2003:~~

~~Missoula County~~	~~Airport Industrial~~	~~$4,812~~
~~Silver Bow~~	~~Ramsay Industrial~~	~~597,594;~~

~~(ii) for fiscal years 2004 and 2005:~~

~~Missoula~~	~~County Airport Industrial~~	~~$2,406~~
~~Silver Bow~~	~~Ramsay Industrial~~	~~298,797; and~~

~~(iii) $0 for all succeeding fiscal years.~~

~~(d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c) may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the tax increment financing industrial district.~~

~~(e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other half must be made in December of each year.~~

~~(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.~~

~~(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.~~

~~(9) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.~~

~~(b) For the purposes of subsection (9)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.~~

~~(10) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).~~

~~(11) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.~~

~~(12) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211."~~

~~**Section 2.** Section 46-18-111, MCA, is amended to read:~~

~~**"46-18-111. Presentence investigation -- when required.** (1) Upon the acceptance of a plea or upon~~

~~a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report.~~ The district court shall order the offender to pay a $50 presentence investigation report fee to the department of corrections unless the judge finds that the offender cannot pay the fee. The department may use the fee to help cover the cost of producing the report. ~~The district court shall consider the presentence investigation report prior to sentencing. If the defendant~~ offender ~~was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, or 45-5-627, the investigation must include a psychosexual evaluation of the defendant~~ offender ~~and a recommendation as to treatment of the defendant~~ offender ~~in the least restrictive environment, considering the risk the defendant~~ offender ~~presents to the community and the defendant's~~ offender's ~~needs, unless the defendant~~ offender ~~was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant~~ offender. ~~If the defendant~~ offender ~~is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.~~

~~(2) The court shall order a presentence report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant~~ an offender ~~convicted of any~~ a felony ~~offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant~~ an offender ~~convicted of a misdemeanor only if the defendant~~ offender ~~was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502."~~

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence or any condition of a deferred imposition of sentence, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court during the period of suspension or deferral. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay, the offender must be brought before the judge, and the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified, unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence. However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any ~~lesser~~ sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time and either expressly allow all or part of the time as a credit against the sentence or reject all or part of the time as a credit. The judge shall state the reasons for the judge's determination in the order. Credit~~, however,~~ must be allowed for time served in a detention center or home arrest time already served.

(c) If a judge finds that an offender has not violated a term or condition of a suspended or deferred sentence, that judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released."

Section 2. Section 46-23-1031, MCA, is amended to read:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection (1)(b), a probationer, ~~or~~ parolee, or person committed to the department who is supervised by the department under intensive supervision or conditional release shall pay TO THE CLERK OF THE DISTRICT COURT THAT HAS JURISDICTION OVER THE PERSON DURING THE PERSON'S SUPERVISION a supervisory fee of no less than $120 a year and no more than $360 a year, prorated at no less than $10 a month for the number of months under supervision. A person allowed to transfer supervision to another state shall pay a fee of $50 to cover the cost of processing the transfer. The ~~fee~~ INTERSTATE TRANSFER fees required by this subsection must be collected by the ~~clerk of the district court with jurisdiction during the probationer's or parolee's period of supervision under this part~~ department.

(b) The court, department, or ~~the~~ board may reduce or waive ~~the~~ a fee required by subsection (1)(a) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the ~~probationer or parolee~~ person a significant financial hardship.

(2) (a) There is an account in the state special revenue fund for the SUPERVISORY fees collected under the provisions of this section.

(b) ~~(i) Prior to July 1, 2003, district court clerks~~ The department PRIOR TO JULY 1, 2003, DISTRICT COURT CLERKS shall deduct from the total SUPERVISORY fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the remaining amount into the state special revenue account established in subsection (2)(a). AFTER JUNE 30, 2003, DISTRICT COURT CLERKS SHALL DEPOSIT THE TOTAL SUPERVISORY FEES COLLECTED PURSUANT TO SUBSECTION (1) INTO THE STATE SPECIAL REVENUE ACCOUNT ESTABLISHED IN SUBSECTION (2)(A) AS SPECIFIED BY THE SUPREME COURT ADMINISTRATOR.

~~(ii) After June 30, 2003, district court clerks shall deposit the fees into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator.~~"

Section 3. Section 53-30-402, MCA, is amended to read:

"53-30-402. ~~Sentence reduction for offenders~~ Completion of boot camp -- suspension of sentence. A sentencing court retains jurisdiction for purposes of this section. ~~A sentencing court may order a reduction of sentence for a convicted~~ If an offender who:

~~(1) is certified by the department as having successfully completed the boot camp incarceration program; and~~

~~(2) applies to the court within 1 year after beginning to serve a sentence at a correctional institution, the sentencing court shall suspend any remaining sentence of imprisonment, place the offender on probation during the suspended portion of the sentence of imprisonment, and impose conditions on the suspension.~~ AT THE TIME OF SENTENCING, THE SENTENCING COURT MAY ORDER THAT IF THE CONVICTED PERSON SUCCESSFULLY COMPLETES THE BOOT CAMP INCARCERATION PROGRAM:

(1) THE COURT WILL CONSIDER A PETITION FROM THE PERSON, AFTER WHICH THE COURT MAY SUSPEND ALL OR PART OF THE REMAINDER OF THE PERSON'S SENTENCE OF IMPRISONMENT; OR

(2) A PART OR ALL OF THE REMAINDER OF THE PERSON'S SENTENCE OF IMPRISONMENT, AS DETERMINED BY THE COURT AT THE TIME OF SENTENCING, IS AUTOMATICALLY SUSPENDED ON CONDITIONS IMPOSED BY THE COURT AT THE TIME OF SENTENCING."

NEW SECTION. **Section 4. Arrest by probation and parole officer.** A probation and parole officer ~~may arrest a person when there is~~ WHO, WHILE IN THE COURSE OF CONDUCTING THE OFFICER'S DUTIES, HAS A REASONABLE SUSPICION THAT A PERSON IS INTERFERING OR WILL INTERFERE WITH THE OFFICER'S DUTIES OR HAS probable cause to believe that the person is committing or has committed an offense ~~and that the existing circumstances require the person's immediate arrest~~ MAY DETAIN THE PERSON. The probation and parole officer shall immediately notify the nearest available law enforcement agency or peace officer, and ~~give custody of the person arrested to the officer or agency~~ THE LAW ENFORCEMENT AGENCY OR PEACE OFFICER SHALL EITHER TAKE THE PERSON INTO CUSTODY OR RELEASE THE PERSON.

NEW SECTION. **Section 5. Codification instruction.** [Section ~~6~~ 4] is intended to be codified as an integral part of Title 46, chapter 6, part 5, and the provisions of Title 46 apply to [section ~~6~~ 4].

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 222

INTRODUCED BY PARKER

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT ~~TRANSFERRING FROM LOCAL GOVERNMENT USE TO USE BY THE DEPARTMENT OF CORRECTIONS THE FEES IMPOSED ON PROBATIONERS AND PAROLEES FOR THEIR SUPERVISION; REQUIRING A CONVICTED PERSON TO PAY A FEE TO COVER THE COSTS OF PRODUCING A PRESENTENCE INVESTIGATION REPORT;~~ ALLOWING A JUDGE WHO REVOKES A SENTENCE SUSPENSION TO IMPOSE ANY SENTENCE THAT COULD HAVE BEEN IMPOSED THAT IS NOT LONGER THAN THE ORIGINAL SENTENCE; IMPOSING A SUPERVISORY FEE ON PERSONS SUPERVISED BY THE DEPARTMENT OF CORRECTIONS UNDER INTENSIVE SUPERVISION OR CONDITIONAL RELEASE OR TRANSFERRING THEIR SUPERVISION TO ANOTHER STATE; PROVIDING ~~THAT IF A PERSON SUCCESSFULLY COMPLETES BOOT CAMP, THE REMAINDER OF A SENTENCE OF IMPRISONMENT IS REPLACED WITH CONDITIONAL PROBATION; GIVING PROBATION AND PAROLE OFFICERS THE SAME POWER TO ARREST AS PRIVATE CITIZENS HAVE~~ A PROCEDURE FOR SUSPENDING ALL OR PART OF THE REMAINING IMPRISONMENT SENTENCE OF A PERSON WHO SUCCESSFULLY COMPLETES THE STATE BOOT CAMP; GIVING PROBATION AND PAROLE OFFICERS AUTHORITY TO DETAIN A PERSON UNDER LIMITED CIRCUMSTANCES AND TO TURN THE PERSON OVER TO A LAW ENFORCEMENT AGENCY OR PEACE OFFICER; AMENDING SECTIONS ~~15-1-121, 46-18-111,~~ 46-18-203, 46-23-1031, AND 53-30-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~**Section 1.** Section 15-1-121, MCA, is amended to read:~~

~~**"15-1-121. Entitlement share payment -- appropriation.** (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:~~

~~(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;~~

~~(b) vehicle and boat taxes and fees pursuant to:~~

~~(i) Title 23, chapter 2, part 5;~~

~~(ii) Title 23, chapter 2, part 6;~~

~~(iii) Title 23, chapter 2, part 8;~~

~~(iv) 61-3-317;~~

~~(v) 61-3-321;~~

~~(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;~~

~~(vii) Title 61, chapter 3, part 7;~~

~~(viii) 5% of the fees collected under 61-10-122;~~

~~(ix) 61-10-130;~~

~~(x) 61-10-148; and~~

~~(xi) 67-3-205;~~

~~(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);~~

~~(d) district court fees pursuant to:~~

~~(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);~~

~~(ii) 25-1-202;~~

~~(iii) 25-1-1103;~~

~~(iv) 25-9-506;~~

~~(v) 25-9-804; and~~

~~(vi) 27-9-103;~~

~~(e) certificate of ownership fees for manufactured homes pursuant to 15-1-116;~~

~~(f) financial institution taxes pursuant to Title 15, chapter 31, part 7;~~

~~(g) coal severance taxes allocated for county land planning pursuant to 15-35-108;~~

~~(h) all beer, liquor, and wine taxes pursuant to:~~

~~(i) 16-1-404;~~

~~(ii) 16-1-406; and~~

~~(iii) 16-1-411;~~

~~(i) late filing fees pursuant to 61-3-201;~~

~~(j) title and registration fees pursuant to 61-3-203;~~

~~(k) disabled veterans' flat license plate fees and purple heart license plate fees pursuant to 61-3-332;~~

~~(l) county personalized license plate fees pursuant to 61-3-406;~~

~~(m) special mobile equipment fees pursuant to 61-3-431;~~

~~(n) single movement permit fees pursuant to 61-4-310;~~

~~(o) state aeronautics fees pursuant to 67-3-101; and~~

~~(p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.~~

~~(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.~~

~~(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.~~

~~(3) (a) Beginning with fiscal year 2002 and in each succeeding fiscal year, the base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. For fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2004, by October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:~~

~~(i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the probation and parole fee in 46-23-1031(2)(b).~~

~~(ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:~~

~~(A) the last 4 calendar years for which the information has been published; and~~

~~(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).~~

~~(iii) The department shall calculate the average annual growth rate of Montana personal income, as~~

~~published by the bureau of economic analysis of the United States department of commerce, for the following periods:~~

~~(A) the last 4 calendar years for which the information has been published; and~~

~~(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(iii)(A).~~

~~(b) (i) For fiscal year 2004 and subsequent fiscal years, the entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):~~

~~(A) for counties, 54%;~~

~~(B) for consolidated local governments, 62%; and~~

~~(C) for incorporated cities and towns, 70%.~~

~~(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):~~

~~(A) for counties, 54%;~~

~~(B) for consolidated local governments, 62%; and~~

~~(C) for incorporated cities and towns, 70%.~~

~~(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).~~

~~(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis beginning September 15, 2001.~~

~~(b) (i) For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base~~

~~year component. For fiscal year 2003 and each succeeding fiscal year, the growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:~~

~~(A) counties;~~

~~(B) consolidated local governments; and~~

~~(C) incorporated cities and towns.~~

~~(ii) In each fiscal year, the growth amount for counties must be allocated as follows:~~

~~(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and~~

~~(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.~~

~~(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:~~

~~(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and~~

~~(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.~~

~~(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:~~

~~(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and~~

~~(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.~~

~~(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the~~

~~prior fiscal year.~~

~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool.~~

~~(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must be subtracted from each county government's distribution from the entitlement share pool.~~

~~(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.~~

~~(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:~~

~~Cascade~~	~~Great Falls - downtown~~	~~$468,966~~
~~Deer Lodge~~	~~TIF District 1~~	~~3,148~~
~~Deer Lodge~~	~~TIF District 2~~	~~3,126~~
~~Flathead~~	~~Kalispell - District 1~~	~~758,359~~
~~Flathead~~	~~Kalispell - District 2~~	~~5,153~~
~~Flathead~~	~~Kalispell - District 3~~	~~41,368~~
~~Flathead~~	~~Whitefish District~~	~~164,660~~
~~Gallatin~~	~~Bozeman - downtown~~	~~34,620~~
~~Lewis and Clark~~	~~Helena - # 2~~	~~731,614~~
~~Missoula~~	~~Missoula - 1-1B & 1-1C~~	~~1,100,507~~
~~Missoula~~	~~Missoula - 4-1C~~	~~33,343~~
~~Silver Bow~~	~~Butte - uptown~~	~~283,801~~
~~Yellowstone~~	~~Billings~~	~~436,815~~

~~(c) The entitlement share for industrial tax increment financing districts is as follows:~~

~~(i) for fiscal years 2002 and 2003:~~

~~Missoula County~~	~~Airport Industrial~~	~~$4,812~~
~~Silver Bow~~	~~Ramsay Industrial~~	~~597,594;~~

~~(ii) for fiscal years 2004 and 2005:~~

~~Missoula~~	~~County Airport Industrial~~	~~$2,406~~
~~Silver Bow~~	~~Ramsay Industrial~~	~~298,797; and~~

~~(iii) $0 for all succeeding fiscal years.~~

~~(d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c) may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the tax increment financing industrial district.~~

~~(e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other half must be made in December of each year.~~

~~(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.~~

~~(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.~~

~~(9) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.~~

~~(b) For the purposes of subsection (9)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.~~

~~(10) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).~~

~~(11) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.~~

~~(12) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211."~~

~~**Section 2.** Section 46-18-111, MCA, is amended to read:~~

~~**"46-18-111. Presentence investigation -- when required.** (1) Upon the acceptance of a plea or upon~~

~~a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report.~~ The district court shall order the offender to pay a $50 presentence investigation report fee to the department of corrections unless the judge finds that the offender cannot pay the fee. The department may use the fee to help cover the cost of producing the report. ~~The district court shall consider the presentence investigation report prior to sentencing. If the defendant~~ offender ~~was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, or 45-5-627, the investigation must include a psychosexual evaluation of the defendant~~ offender ~~and a recommendation as to treatment of the defendant~~ offender ~~in the least restrictive environment, considering the risk the defendant~~ offender ~~presents to the community and the defendant's~~ offender's ~~needs, unless the defendant~~ offender ~~was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant~~ offender. ~~If the defendant~~ offender ~~is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.~~

~~(2) The court shall order a presentence report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant~~ an offender ~~convicted of any~~ a felony ~~offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant~~ an offender ~~convicted of a misdemeanor only if the defendant~~ offender ~~was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502."~~

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence or any condition of a deferred imposition of sentence, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court during the period of suspension or deferral. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay, the offender must be brought before the judge, and the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified, unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence. However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any ~~lesser~~ sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time and either expressly allow all or part of the time as a credit against the sentence or reject all or part of the time as a credit. The judge shall state the reasons for the judge's determination in the order. Credit~~, however,~~ must be allowed for time served in a detention center or home arrest time already served.

(c) If a judge finds that an offender has not violated a term or condition of a suspended or deferred sentence, that judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released."

Section 2. Section 46-23-1031, MCA, is amended to read:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection (1)(b), a probationer, ~~or~~ parolee, or person committed to the department who is supervised by the department under intensive supervision or conditional release shall pay TO THE CLERK OF THE DISTRICT COURT THAT HAS JURISDICTION OVER THE PERSON DURING THE PERSON'S SUPERVISION a supervisory fee of no less than $120 a year and no more than $360 a year, prorated at no less than $10 a month for the number of months under supervision. A person allowed to transfer supervision to another state shall pay a fee of $50 to cover the cost of processing the transfer. The ~~fee~~ INTERSTATE TRANSFER fees required by this subsection must be collected by the ~~clerk of the district court with jurisdiction during the probationer's or parolee's period of supervision under this part~~ department.

(b) The court, department, or ~~the~~ board may reduce or waive ~~the~~ a fee required by subsection (1)(a) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the ~~probationer or parolee~~ person a significant financial hardship.

(2) (a) There is an account in the state special revenue fund for the SUPERVISORY fees collected under the provisions of this section.

(b) ~~(i) Prior to July 1, 2003, district court clerks~~ The department PRIOR TO JULY 1, 2003, DISTRICT COURT CLERKS shall deduct from the total SUPERVISORY fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the remaining amount into the state special revenue account established in subsection (2)(a). AFTER JUNE 30, 2003, DISTRICT COURT CLERKS SHALL DEPOSIT THE TOTAL SUPERVISORY FEES COLLECTED PURSUANT TO SUBSECTION (1) INTO THE STATE SPECIAL REVENUE ACCOUNT ESTABLISHED IN SUBSECTION (2)(A) AS SPECIFIED BY THE SUPREME COURT ADMINISTRATOR.

~~(ii) After June 30, 2003, district court clerks shall deposit the fees into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator.~~"

Section 3. Section 53-30-402, MCA, is amended to read:

"53-30-402. ~~Sentence reduction for offenders~~ Completion of boot camp -- suspension of sentence. A sentencing court retains jurisdiction for purposes of this section. ~~A sentencing court may order a reduction of sentence for a convicted~~ If an offender who:

~~(1) is certified by the department as having successfully completed the boot camp incarceration program; and~~

~~(2) applies to the court within 1 year after beginning to serve a sentence at a correctional institution, the sentencing court shall suspend any remaining sentence of imprisonment, place the offender on probation during the suspended portion of the sentence of imprisonment, and impose conditions on the suspension.~~ AT THE TIME OF SENTENCING, THE SENTENCING COURT MAY ORDER THAT IF THE CONVICTED PERSON SUCCESSFULLY COMPLETES THE BOOT CAMP INCARCERATION PROGRAM:

(1) THE COURT WILL CONSIDER A PETITION FROM THE PERSON, AFTER WHICH THE COURT MAY SUSPEND ALL OR PART OF THE REMAINDER OF THE PERSON'S SENTENCE OF IMPRISONMENT; OR

(2) A PART OR ALL OF THE REMAINDER OF THE PERSON'S SENTENCE OF IMPRISONMENT, AS DETERMINED BY THE COURT AT THE TIME OF SENTENCING, IS AUTOMATICALLY SUSPENDED ON CONDITIONS IMPOSED BY THE COURT AT THE TIME OF SENTENCING."

NEW SECTION. **Section 4. Arrest by probation and parole officer.** A probation and parole officer ~~may arrest a person when there is~~ WHO, WHILE IN THE COURSE OF CONDUCTING THE OFFICER'S DUTIES, HAS A REASONABLE SUSPICION THAT A PERSON IS INTERFERING OR WILL INTERFERE WITH THE OFFICER'S DUTIES OR HAS probable cause to believe that the person is committing or has committed an offense ~~and that the existing circumstances require the person's immediate arrest~~ MAY DETAIN THE PERSON. The probation and parole officer shall immediately notify the nearest available law enforcement agency or peace officer, and ~~give custody of the person arrested to the officer or agency~~ THE LAW ENFORCEMENT AGENCY OR PEACE OFFICER SHALL EITHER TAKE THE PERSON INTO CUSTODY OR RELEASE THE PERSON.

NEW SECTION. **Section 5. Codification instruction.** [Section ~~6~~ 4] is intended to be codified as an integral part of Title 46, chapter 6, part 5, and the provisions of Title 46 apply to [section ~~6~~ 4].

NEW SECTION. **SECTION 6. COORDINATION INSTRUCTION.** IF HOUSE BILL NO. 29 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN [SECTION 1 OF HOUSE BILL NO. 29], AMENDING 53-30-402, IS VOID.

NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

- END -

AN ACT ALLOWING A JUDGE WHO REVOKES A SENTENCE SUSPENSION TO IMPOSE ANY SENTENCE THAT COULD HAVE BEEN IMPOSED THAT IS NOT LONGER THAN THE ORIGINAL SENTENCE; IMPOSING A SUPERVISORY FEE ON PERSONS SUPERVISED BY THE DEPARTMENT OF CORRECTIONS UNDER INTENSIVE SUPERVISION OR CONDITIONAL RELEASE OR TRANSFERRING THEIR SUPERVISION TO ANOTHER STATE; PROVIDING A PROCEDURE FOR SUSPENDING ALL OR PART OF THE REMAINING IMPRISONMENT SENTENCE OF A PERSON WHO SUCCESSFULLY COMPLETES THE STATE BOOT CAMP; GIVING PROBATION AND PAROLE OFFICERS AUTHORITY TO DETAIN A PERSON UNDER LIMITED CIRCUMSTANCES AND TO TURN THE PERSON OVER TO A LAW ENFORCEMENT AGENCY OR PEACE OFFICER; AMENDING SECTIONS 46-18-203, 46-23-1031, AND 53-30-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence or any condition of a deferred imposition of sentence, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court during the period of suspension or deferral. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay, the offender must be brought before the judge, and the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified, unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence. However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any ~~lesser~~ sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time and either expressly allow all or part of the time as a credit against the sentence or reject all or part of the time as a credit. The judge shall state the reasons for the judge's determination in the order. Credit~~, however,~~ must be allowed for time served in a detention center or home arrest time already served.

(c) If a judge finds that an offender has not violated a term or condition of a suspended or deferred sentence, that judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released."

Section 2. Section 46-23-1031, MCA, is amended to read:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection (1)(b), a probationer, ~~or~~ parolee, or person committed to the department who is supervised by the department under intensive supervision or conditional release shall pay to the clerk of the district court that has jurisdiction over the person during the person's supervision a supervisory fee of no less than $120 a year and no more than $360 a year, prorated at no less than $10 a month for the number of months under supervision. A person allowed to transfer supervision to another state shall pay a fee of $50 to cover the cost of processing the transfer. The ~~fee~~ interstate transfer fees required by this subsection must be collected by the ~~clerk of the district court with jurisdiction during the probationer's or parolee's period of supervision under this part~~ department.

(b) The court, department, or ~~the~~ board may reduce or waive ~~the~~ a fee required by subsection (1)(a) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the ~~probationer or parolee~~ person a significant financial hardship.

(2) (a) There is an account in the state special revenue fund for the supervisory fees collected under the provisions of this section.

(b) ~~(i) Prior to July 1, 2003, district court clerks~~ Prior to July 1, 2003, district court clerks shall deduct from the total supervisory fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the remaining amount into the state special revenue account established in subsection (2)(a). After June 30, 2003, district court clerks shall deposit the total supervisory fees collected pursuant to subsection (1) into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator.

~~(ii) After June 30, 2003, district court clerks shall deposit the fees into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator.~~"

Section 3. Section 53-30-402, MCA, is amended to read:

"53-30-402. ~~Sentence reduction for offenders~~ Completion of boot camp -- suspension of sentence. A sentencing court retains jurisdiction for purposes of this section. ~~A sentencing court may order a~~

~~reduction of sentence for a convicted offender who:~~

~~(1) is certified by the department as having successfully completed the boot camp incarceration program; and~~

~~(2) applies to the court within 1 year after beginning to serve a sentence at a correctional institution.~~ At the time of sentencing, the sentencing court may order that if the convicted person successfully completes the boot camp incarceration program:

(1) the court will consider a petition from the person, after which the court may suspend all or part of the remainder of the person's sentence of imprisonment; or

(2) a part or all of the remainder of the person's sentence of imprisonment, as determined by the court at the time of sentencing, is automatically suspended on conditions imposed by the court at the time of sentencing."

Section 4. Arrest by probation and parole officer. A probation and parole officer who, while in the course of conducting the officer's duties, has a reasonable suspicion that a person is interfering or will interfere with the officer's duties or has probable cause to believe that the person is committing or has committed an offense may detain the person. The probation and parole officer shall immediately notify the nearest available law enforcement agency or peace officer, and the law enforcement agency or peace officer shall either take the person into custody or release the person.

Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 46, chapter 6, part 5, and the provisions of Title 46 apply to [section 4].

Section 6. Coordination instruction. If House Bill No. 29 and [this act] are both passed and approved, then [section 1 of House Bill No. 29], amending 53-30-402, is void.

Section 7. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

HB 0222, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____ day

of _____, 2019.

_____

President of the Senate

Signed this _____ day

of _____, 2019.

HOUSE BILL NO. 222

INTRODUCED BY PARKER

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

AN ACT ALLOWING A JUDGE WHO REVOKES A SENTENCE SUSPENSION TO IMPOSE ANY SENTENCE THAT COULD HAVE BEEN IMPOSED THAT IS NOT LONGER THAN THE ORIGINAL SENTENCE; IMPOSING A SUPERVISORY FEE ON PERSONS SUPERVISED BY THE DEPARTMENT OF CORRECTIONS UNDER INTENSIVE SUPERVISION OR CONDITIONAL RELEASE OR TRANSFERRING THEIR SUPERVISION TO ANOTHER STATE; PROVIDING A PROCEDURE FOR SUSPENDING ALL OR PART OF THE REMAINING IMPRISONMENT SENTENCE OF A PERSON WHO SUCCESSFULLY COMPLETES THE STATE BOOT CAMP; GIVING PROBATION AND PAROLE OFFICERS AUTHORITY TO DETAIN A PERSON UNDER LIMITED CIRCUMSTANCES AND TO TURN THE PERSON OVER TO A LAW ENFORCEMENT AGENCY OR PEACE OFFICER; AMENDING SECTIONS 46-18-203, 46-23-1031, AND 53-30-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE 1/21/03

NAME	PRESENT	ABSENT	EXCUSED
REP. JEFF LASZLOFFY, VICE CHAIR MAJORITY	✓		
REP. PAUL CLARK, VICE CHAIR MINORITY	✓		
REP. SCOTT SALES	✓		
REP. MIKE LANGE	✓		
REP. DIANE RICE	✓		
REP. CHRISTOPHER HARRIS			
REP. TOM FACEY	✓		
REP. STEVE GALLUS	✓		
REP. JOHN PARKER	✓		
REP. HOLLY RASER	✓		
REP. MARK NOENNIG	✓		
REP. BRUCE MALCOLM	✓		
REP. BILL THOMAS	✓		
REP. RON STOKER	✓		
REP. GAIL GUTSCHE	✓		
REP. GEORGE EVERETT	✓		
REP. BRAD NEWMAN	✓		
REP. JIM SHOCKLEY, CHAIRMAN	✓		

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 1/21 BILL NO 171 MOTION NO.
MOTION: Do Pass HB 171 w/ amend
18-0

NAME	AYE	NO	ABSENTEE
REP. JEFF LASZLOFFY, VICE CHAIR MAJORITY	✓		
REP. PAUL CLARK, VICE CHAIR MINORITY	✓		
REP. SCOTT SALES	✓		
REP. MIKE LANGE	✓		
REP. DIANE RICE	✓		
REP. CHRISTOPHER HARRIS	✓ proxy by Clark		
REP. TOM FACEY	✓		
REP. STEVE GALLUS	✓		
REP. JOHN PARKER	✓		
REP. HOLLY RASER	✓		
REP. MARK NOENNIG	✓		
REP. BRUCE MALCOLM	✓		
REP. BILL THOMAS	✓		
REP. RON STOKER	✓		
REP. GAIL GUTSCHE	✓		
REP. GEORGE EVERETT	✓		
REP. BRAD NEWMAN	✓		
REP. JIM SHOCKLEY, CHAIRMAN	✓		

18-0

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 1/21/03 BILL NO ~~214~~ 171 MOTION NO.
MOTION: Gutsches Mot to Reconsider Amendments —
fails 7-10 - Bill stands as amended

NAME	AYE	NO	ABSENTEE
REP. JEFF LASZLOFFY, VICE CHAIR MAJORITY		✓	
REP. PAUL CLARK, VICE CHAIR MINORITY		✓	
REP. SCOTT SALES		✓	
REP. MIKE LANGE	✓		
REP. DIANE RICE		✓	
REP. CHRISTOPHER HARRIS	✓		
REP. TOM FACEY	✓		
REP. STEVE GALLUS		✓	
REP. JOHN PARKER	✓		
REP. HOLLY RASER	✓		
REP. MARK NOENNIG		✓	
REP. BRUCE MALCOLM		✓	
REP. BILL THOMAS		✓	
REP. RON STOKER		✓	
REP. GAIL GUTSCHE	✓		
REP. GEORGE EVERETT		✓	
REP. BRAD NEWMAN	✓		
REP. JIM SHOCKLEY, CHAIRMAN	✓		
	7	10	

s:/JudicRollCallVote2003

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 171** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Jim Shockley, Chair

And, that such amendments read:

1. Title, page 1, line 6.
Following: "CONTENDERE;"
Insert: "PROVIDING AN EXCEPTION;"

2. Page 1, line 18.
Following: "or"
Insert: ", except when a claim of innocence is supported by evidence of a fundamental miscarriage of justice,"

- END -

Committee Vote:
Yes 18, No 0.

121245SC.hhn

1-21-03

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 197** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Jim Shockley, Chair

And, that such amendments read:

1. Page 16, line 18.
"NEW SECTION. **Section 14. Coordination instruction.** If a senate or house bill is passed and approved that amends 61-8-406(1)(a) by substituting ".08" for "0.10", then ".08" is substituted for "0.10" in 61-5-205(2)(a) as amended by [this act]."

Renumber: subsequent section

- END -

Committee Vote:
Yes 18, No 0.

121320SC.hhn

1-21-03

HOUSE STANDING COMMITTEE REPORT

January 21, 2003

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 210** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Jim Shockley, Chair

And, that such amendments read:

1. Title, line 7.
Following: "JURISDICTION;"
Insert: "PROVIDING A TIME FOR AN APPEAL;"

2. Page 1, line 27.
Following: "may"
Insert: ", within 90 days of the denial of the motion,"

- END -

1-21-03

Committee Vote:
Yes 18, No 0.

121244SC.hhn

HOUSE STANDING COMMITTEE REPORT

January 21, 2003

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 212** (first reading copy -- white) **do pass.**

Signed: _____
Representative Jim Shockley, Chair

- END -

1-21-03

Committee Vote:
Yes 18, No 0.

121407SC.hhn

HOUSE STANDING COMMITTEE REPORT

January 21, 2003

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 209** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Jim Shockley, Chair

And, that such amendments read:

1. Page 1, line 18.
Following: "years"
Insert: "from the date of the entry of the judgment"

- END -

Committee Vote:
Yes 18, No 0.

121319SC.hhn

1-21-03

COMMITTEE ABSENTEE BALLOT

Date: 1/21/2003

I hereby authorize Rep. P. CLARK

to cast my vote(s) as follows:

Yes on HB 171 DO pass motion
Yes on 197
Yes on 210
Yes on 212
209

Representative Chris Hanin

Montana House of Representatives
Visitors Register

JUDICIARY COMMITTEE **Date** 1/21/03

Bill No. HB234 **Sponsor(s)** J. Cohenour

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.
S. J. Driscoll	MHP	X		
Jim Kembel	MACOP Mt Assoc of Chiefs of Police	X		
Beda Lovitt	Mt Med Assn	X		
Tim Dowell	HD78	V		
Tom Harrison	AAA Mountain West	X		
Jerry Williams	Mont Police Protective Assoc	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Montana House of Representatives
Visitors Register

JUDICIARY COMMITTEE **Date** 1/21/03

Bill No. HB 214 **Sponsor(s)** J. Shockley

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.
Al Smith	MTLA	X		
Greg Van Horssen	State Farm Ins. Co		X AMEND	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Montana House of Representatives
Visitors Register

JUDICIARY COMMITTEE **Date** 1/21/03

Bill No. HB 222 **Sponsor(s)** J. Parker

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.
Bill Slaughter	DOC	X		
HAROLD BLATTIE	MACO	W/Amend		
Cathy Gordon	DOC	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Montana House of Representatives
Visitors Register

JUDICIARY COMMITTEE **Date** 1/21/03

Bill No. HB 166 **Sponsor(s)** G. Mathews

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

EXHIBIT 4
DATE 1/21/03
HB 222

DEPARTMENT OF CORRECTIONS

JUDY MARTZ, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930
FAX (406) 444-4920

PO BOX 201301
HELENA, MONTANA 59620-1301

Mr. Chairman and Members of the House Committee

My name is Monty Le Texier. I am a Montana State Probation and Parole Officer and also serve the citizens of Jefferson County as a Lieutenant with the Jefferson County Sheriff's Reserves.

I am a propone ant for House Bill No. 222 and would like to specifically address section 6. In my capacity as a Probation and Parole Officer, I supervise 80 plus convicted felons with offenses ranging from Mitigated Deliberate Homicide, to Criminal Possession of Dangerous Drugs, to Felony Theft. In the course of supervising these Offenders, the Department Of Corrections has specific standards that are required for Probation and Parole officers to utilize to ensure our communities safety. One such standard that we must perform is home visits. On more that one occasion while performing these visits, Officers find themselves in very dangerous environments.

In the past month, my partner and I have conducted not less than 7 felony drug busts, resulting in forfeitures of drug money, confiscation of methamphetamine, marijuana, morphine, demerol, firearms, knives, and honed swords. This is but a portion of what Probation and Parole Officer's are having contact with more and more frequently. The above is not to exclude the hazardous environment that drug users and dealers put forth to our community.

While conducting these home visits, it is very common for individuals not on probation or parole to be in the homes of our offenders. At present, a Probation and Parole Officer has no authority to affect and arrest on these people even if there is probable cause to believe that the person in the residence is committing or has committed an offense that requires, by law, their arrest. This deficit in the authority of a Probation and Parole Officer severely jeopardizes mine and my fellow officer's safety due to the lack of authority to affect an arrest as specified in section 6 of HB 222.

A specific example of what I am referring to occurred last Wednesday, January 15, 2002. Probation and Parole Officer Erik Carlson and I were informed that an offender might have methamphetamine in his residence. While conducting the home visit, alcohol, methamphetamine, pepper spray, and drug paraphernalia were found in the Offender's bedroom. I called for law enforcement assistance while Officer Carlson went up stairs and discovered a male hiding in a bedroom corner. Carlson ordered the male to come out and go down stairs, which he did. My partner then went back upstairs to continue

searching. He noticed a jacket that was seen in the middle of the floor the last time he was there, as missing. He identified himself and attempted to communicate with the second hidden person. There was no response. Not being able to locate the second person and not knowing that person's intention, Officer Carlson returned down stairs and we waited for backup. We were able to talk the second male out of hiding just as law enforcement arrived. The individuals were searched by police and released. It is this and many instances like it that could benefit from House Bill 222.

In closing, I ask you Mr. Chairman and this Committee to please support House Bill 222 vividly. You will ensure not only my safety but also the safety of my fellow officers in the performance of our duties.

Respectfully,

Monty Le Texier
Montana State Probation and Parole Officer

EXHIBIT 3
DATE 1/21/03
HB 222

DEPARTMENT OF CORRECTIONS

JUDY MARTZ, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930
FAX (406) 444-4920

PO BOX 201301
HELENA, MONTANA 59620-1301

January 17, 2003

Mr. Chairman and Members of the House Committee:

Good morning Mr. Chairman and committee members, my name is Bud Walsh, I am a Probation and Parole Officer II and Lead Firearms Instructor for the Probation and Parole Bureau. I am here today as a proponent for House Bill #222 in its entirety as submitted by the Department of Corrections Probation and Parole Bureau. The Bill as submitted will enable Judges, County Attorneys, the Department of Corrections Probation and Parole to effectively do their jobs in a more efficient and cost effective manner while keeping communities in the State of Montana safe.

I would specifically like to address Section 6, Arrest by Probation and Parole Officer, and voice my strong support for this particular portion of House Bill #222. I have been with the Probation and Parole Department for the last 13years. I have been a traditional Probation and Parole Officer and an Intensive Supervision Officer. I am a Probation and Parole Officer II (supervisor) and the Lead Firearms Instructor for our department. In the scope of my duties I am required to train all officers in the field pertaining to officer safety.

Since I began my career in Billings, Mt., I have on numerous occasions been in situation where section 6 of HB 222 would have enhanced mine and other officers safety, as well as the clients .I have personally been involved in situations that began as home visits that transpired to a felony drug bust involving more than just clients. Presently Probation And Parole Officers do not have the authority to make an arrest on an individual who is not a client. The previous scenario greatly compromises officers safety while performing their duties.

Probation and Parole Officers today more than ever find themselves in situations that have the potential of putting them in harms way. Home visits are a vital part of the officer's duties that hold offenders accountable for past and future actions. I know from working with and training these officers that they are presently without the complete set of tools needed to perform their duties and remain as safe as possible. In the past home visits were not a required standard and intervention by the officer was delayed, in turn this had a negative effect on community safety. Presently officers are in the field and intervening on many occasions before drugs are released into the streets of our communities. Unrenowned are the efforts and the important role they play with local Law Enforcement, State and

Federal agencies in the fight to keep illegal drugs from getting into our communities. Section 6 of House Bill #222 has the ability to provide the Probation and Parole Officers of the State with the authority necessary to perform their jobs in a more effective, safe and professional manner. Specifically, officers will have the ability to control a situation through the means of section 6 applying arrest authorities to an individual who is infringing on officers safety or has committed a crime (obstructing justice). The Probation and Parole Officer would be able to arrest this individual, and contact local law enforcement for further processing.

I strongly urge the committee to support House Bill #222 and assure not only community safety, but safety of all our Probation and Parole Officers throughout the State of Montana.

Respectfully Submitted,

Bud Walsh
Probation/Parole Officer II
Region II
Butte, Montana 59701
406-723-8911

BW:js

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE 2/14/03

NAME	PRESENT	ABSENT	EXCUSED
REP. JEFF LASZLOFFY, VICE CHAIR MAJORITY	✓		
REP. PAUL CLARK, VICE CHAIR MINORITY	✓		
REP. SCOTT SALES	✓		
REP. MIKE LANGE	✓		
REP. DIANE RICE	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. TOM FACEY	✓		
REP. STEVE GALLUS	✓		
REP. JOHN PARKER	✓		
REP. HOLLY RASER	✓		
REP. MARK NOENNIG	✓		
REP. BRUCE MALCOLM	✓		
REP. BILL THOMAS	✓		
REP. RON STOKER	✓		
REP. GAIL GUTSCHE	✓		
REP. GEORGE EVERETT	✓		
REP. BRAD NEWMAN	✓		
REP. JIM SHOCKLEY, CHAIRMAN	✓		

COMMITTEE FILE COPY

TABLED BILL

The **HOUSE JUDICIARY COMMITTEE** TABLED **HB 346, HB 347, HB 457**, by motion, on **Friday, February 14, 2003.**

(For the Committee)

(Chief Clerk of the House)

12:25 (Time) 2-14 (Date)

February 14, 2003 Lisa A. Swanson, Secretary Phone: 4838

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 222** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Jim Shockley, Chair

And, that such amendments read:

1. Title, page 1, line 5 through line 8.
Strike: "TRANSFERRING" on line 5 through "REPORT;" on line 8

2. Title, page 1, line 13 through line 15.
Strike: "THAT" on line 13 through "HAVE" on line 15
Insert: "A PROCEDURE FOR SUSPENDING ALL OR PART OF THE REMAINING IMPRISONMENT SENTENCE OF A PERSON WHO SUCCESSFULLY COMPLETES THE STATE BOOT CAMP; GIVING PROBATION AND PAROLEE OFFICERS AUTHORITY TO DETAIN A PERSON UNDER LIMITED CIRCUMSTANCES AND TO TURN THE PERSON OVER TO A LAW ENFORCEMENT AGENCY OR PEACE OFFICER"

3. Title, page 1, line 16.
Strike: "15-1-121" through "46-18-111,"

4. Page 1, line 21 through page 8, line 28.
Strike: sections 1 and 2 in their entirety
Renumber: subsequent sections

5. Page 10, line 22.
Following: "pay"
Insert: "to the clerk of the district court that has jurisdiction over the person during the person's supervision"

M. Peterson
2/18 12:30

Committee Vote:
Yes 17, No 0.

331204SC.hhn

6. Page 10, line 25.
Following: "~~fee~~"
Insert: "interstate transfer"

7. Page 10, line 30.
Following: "for the"
Insert: "supervisory"

8. Page 11, line 2.
Strike: "The department"
Insert: "Prior to July 1, 2003, district court clerks"
Following: "total"
Insert: "supervisory"

9. Page 11, line 4.
Following: "(2)(a)."
Insert: "After June 30, 2003, district court clerks shall deposit the total supervisory fees collected pursuant to subsection (1) into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator."

10. Page 11, line 11 through line 16.
Strike: "If an" on line 11 through "." on line 16
Insert: "At the time of sentencing, the sentencing court may order that if the convicted person successfully completes the boot camp incarceration program:

(1) the court will consider a petition from the person, after which the court may suspend all or part of the remainder of the person's sentence of imprisonment; or

(2) a part or all of the remainder of the person's sentence of imprisonment, as determined by the court at the time of sentencing, is automatically suspended on conditions imposed by the court at the time of sentencing."

11. Page 11, line 19.
Strike: "may arrest a person when there is"
Insert: "who, while in the course of conducting the officer's duties has a reasonable suspicion that a person is interfering or will interfere with the officer's duties or has"

12. Page 11, line 20.
Strike: "and that" through "arrest"
Insert: "may detain the person"

13. Page 11, line 21 through line 22.
Following: the second "officer" on line 21
Insert: ","
Strike: "give" on line 21 through "agency" on line 22
Insert: "the law enforcement agency or peace officer shall either take the person into custody or release the person"

14. Page 11, line 24.
Strike: "6"
Insert: "4"

15. Page 11, line 25.
Strike: "6"
Insert: "4"

- END -

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/14/03 BILL NO 457 MOTION NO.
MOTION: Newman moved TO Table HB457. Carried 10-7

NAME	AYE	NO	ABSENTEE
REP. JEFF LASZLOFFY, VICE CHAIR MAJORITY	✓		
REP. PAUL CLARK, VICE CHAIR MINORITY	✓		
REP. SCOTT SALES	✓		
REP. MIKE LANGE			
REP. DIANE RICE	✓		
REP. CHRISTOPHER HARRIS		✓	
REP. TOM FACEY	✓		
REP. STEVE GALLUS	✓		
REP. JOHN PARKER		✓	
REP. HOLLY RASER		✓	
REP. MARK NOENNIG	✓		
REP. BRUCE MALCOLM		✓	
REP. BILL THOMAS		✓	
REP. RON STOKER		✓	
REP. GAIL GUTSCHE	✓		
REP. GEORGE EVERETT		✓	
REP. BRAD NEWMAN	✓		
REP. JIM SHOCKLEY, CHAIRMAN	✓		

10 7

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/14/03 BILL NO 346 MOTION NO.
MOTION: Facey Moved to Pass no till Tues 2/18@3. failed (5-12)

NAME	AYE	NO	ABSENTEE
REP. JEFF LASZLOFFY, VICE CHAIR MAJORITY		✓	
REP. PAUL CLARK, VICE CHAIR MINORITY		✓	
REP. SCOTT SALES		✓	
REP. MIKE LANGE		✓	
REP. DIANE RICE		✓	
REP. CHRISTOPHER HARRIS	✓		
REP. TOM FACEY	✓		
REP. STEVE GALLUS		✓	
REP. JOHN PARKER	✓		
REP. HOLLY RASER			
REP. MARK NOENNIG		✓	
REP. BRUCE MALCOLM		✓	
REP. BILL THOMAS	✓		
REP. RON STOKER	✓		
REP. GAIL GUTSCHE		✓	
REP. GEORGE EVERETT		✓	
REP. BRAD NEWMAN		✓	
REP. JIM SHOCKLEY, CHAIRMAN		✓	

5 12

Montana House of Representatives
Visitors Register

JUDICIARY COMMITTEE Date ~~2/14/03~~ 2/14/03

Bill No. ~~SB 6~~ 571 Sponsor(s) ~~Crichton~~ Parker

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Jim KEMBEL	MACOP MPPA	X		
Ali Bovingdon	DOJ	X		
Cort Jensen	DOA - Consumer Protection			X
Pat Callbeck Harper	AARP - MT	written X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Montana House of Representatives
Visitors Register

JUDICIARY COMMITTEE Date 2/14/03

Bill No. 457 Sponsor(s) ~~Mendenhall~~ Jarussi

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Doug Adams	myself	✓		
Cort Jesse	Consumer Info			Y

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Witness Statement

DATE 2/14/03

HOUSE OF REPRESENTATIVES HB 571
Judiciary Committee

WITNESS STATEMENT

PLEASE PRINT

NAME JIM KEMBEL **BUDGET**

ADDRESS 1100 KNIGHT **DATE** 2/14/03

WHOM DO YOU REPRESENT? MACOP + MPPA

SUPPORT: X **OPPOSE** **AMEND**

COMMENTS: HB 571

I appologize for not being here to express the following but I have another hearing in Senate Judiciary Rm 303.

Both the Police Protection + Police Chiefs' Asscciation support the legislation in that the program is enforcement function + properly belongs with the Dept. of Justice

Thank you to Rep. Parker bringing forth the legislation and we would encourage the Committee to give the bill a do pass.

James Kembel

DEPARTMENT OF CORRECTIONS

JUDY MARTZ, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930
FAX (406) 444-4920

PO BOX 201301
HELENA, MONTANA 59620-1301

January 17, 2003

Mr. Chairman and Members of the Senate Sub - Committee:

Good morning Mr. Chairman and committee members, my name is Bud Walsh, I am a Probation and Parole Officer II and Lead Firearms Instructor for the Probation and Parole Bureau. I am here today as a proponent for House Bill #222 in its entirety as submitted by the Department of Corrections Probation and Parole Bureau. The Bill as submitted will enable Judges, County Attorneys, the Department of Corrections Probation and Parole to effectively do their jobs in a more efficient and cost effective manner while keeping communities and P&P Officers in the State of Montana safe.

I would specifically like to address Section 4, Arrest by Probation and Parole Officer, and voice my strong support for this particular portion of House Bill #222. I have been with the Probation and Parole Department for the last 13years. I have been a traditional Probation and Parole Officer and an Intensive Supervision Officer. I am a Probation and Parole Officer II (supervisor) and the Lead Firearms Instructor for our department. In the scope of my duties I am required to train all officers in the field pertaining to officer safety.

Since I began my career in Billings, Mt., I have on numerous occasions been in situation where section 4 of HB 222 would have enhanced officers safety, as well as the clients .I have personally been involved in situations that began as home visits that transpired to a felony drug bust involving more than just clients. Presently Probation And Parole Officers do not have the authority to make an arrest on an individual who is not a client. The previous scenario greatly compromises officers safety while performing their duties.

Probation and Parole Officers today more than ever find themselves in situations that have the potential of putting them in harms way. Home visits are a vital part of the officer's duties that hold offenders accountable for past and future actions. I know from working with and training these officers that they are presently without the complete set of tools needed to perform their duties and remain as safe as possible. In the past home visits were not a required standard and intervention by the officer was delayed, in turn this had a negative effect on community safety. Presently officers are in the field and intervening on many occasions before drugs are released into the streets of our communities. Unrenowned are the efforts and the important role Probation and Parole Officeres play with local Law Enforcement, State and Federal agencies in the fight to keep illegal drugs from getting into

SENATE JUDICIARY
Exhibit No. 1
Date HB222
Bill No. 2-13-03

our communities. Section 4 of House Bill #222 has the ability to provide the Probation and Parole Officers of the State with the authority necessary to perform their jobs in a more effective, safe and professional manner. Specifically, officers will have the ability to control a situation through the means of section 4 applying arrest authorities to an individual who is infringing on officers safety or has committed a crime (obstructing justice). The Probation and Parole Officer would be able to Detain this individual, and contact local law enforcement for further processing.

I strongly urge the committee to support House Bill #222 and assure not only community safety, but safety of all our Probation and Parole Officers throughout the State of Montana.

Respectfully Submitted,

Bud Walsh
Probation/Parole Officer II
Region II
Butte, Montana 59701
406-723-8911

BW:js

DEPARTMENT OF CORRECTIONS

JUDY MARTZ, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930
FAX (406) 444-4920

PO BOX 201301
HELENA, MONTANA 59620-1301

Mr. Chairman and Members of the Senate Judiciary Committee

My name is Monty Le Texier and I am a Montana State Probation and Parole Officer and also serve the citizens of Jefferson County as a Lieutenant with the Jefferson County Sheriff's Reserves.

I am a proponent for House Bill No. 222 and would like to specifically address section 6. In my capacity as a Probation and Parole Officer, I supervise 80 plus convicted felons with offenses ranging from Mitigated Deliberate Homicide, to Criminal Possession of Dangerous Drugs, to Felony Theft. In the course of supervising these Offenders, the Department Of Corrections has specific standards that are required for Probation and Parole officers to utilize to ensure our communities safety. One such standard used is the the required home visits. On more that one occasion while performing these visits, Officers find themselves in very dangerous environments.

In the past few months, my partner and I have conducted not less than 10 felony drug busts, resulting in forfeitures of drug money, confiscation of methamphetamine, marijuana, morphine, demerol, firearms, knives, and honed swords. This is but a portion of what Probation and Parole Officer's are having contact with more and more frequently.

While conducting these home visits, it is very common for individuals not on probation or parole to be in the homes of our offenders. At present, a Probation and Parole Officer has no authority to affect an arrest on these people even if there is probable cause to believe that the person in the residence is committing or has committed an offense that requires, by law, their arrest. This deficit in the authority of a Probation and Parole Officer severely jeopardizes my safety and that of my peers as well as the citizens of Montana due to the lack of authority to affect an arrest as specified in section 6 of HB 222.

A specific example of what I am referring to occurred January 15, 2002. Probation and Parole Officer Erik Carlson and I were informed that an offender may have methamphetamine in his residence. While conducting the home visit, alcohol, methamphetamine, pepper spray, and drug paraphernalia were found in the Offender's bedroom. I called law enforcement for assistance while Officer Carlson went up stairs, discovering a male hiding in a bedroom corner. Carlson ordered the male to come out and go down stairs, which he did. My partner then went back upstairs to continue the

SENATE JUDICIARY
Exhibit No. 2
Date 3-13-03
Bill No. HB 222

search. He noticed a jacket that was in the middle of the floor upstairs was missing. He identified himself and attempted to communicate with a second hidden person. There was no response. Not being able to locate the second person and not knowing that person's intention, Officer Carlson returned down stairs and we waited for backup. We were able to talk the second male out of hiding just as law enforcement arrived. The individuals were searched by police and released. It is this and many instances like it that Probation/Parole Officers would benefit from House Bill 222.

In closing, I ask you Mr. Chairman and this Committee to please support House Bill 222 vividly. You will ensure not only my safety but also the safety of my fellow officers in the performance of our duties.

Respectfully,

Monty Le Texier
Montana State Probation and Parole Officer

MONTANA SENATE
2003 LEGISLATURE
JUDICIARY COMMITTEE
ATTENDANCE

DATE 3-13-03

NAME	PRESENT	EXCUSED	ABSENT
SEN. BRENT CROMLEY	✓		
SEN. AUBYN CURTISS	✓		
SEN. JEFF MANGAN		✓	
SEN. JERRY O'NEIL	✓		
SEN. GERALD PEASE	✓		
SEN. GARY PERRY	✓		
SEN. MIKE WHEAT	✓		
SEN. DAN MCGEE, VICE CHAIRMAN	✓		
SEN. DUANE GRIMES, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

March 13, 2003

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 240** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Mike Wheat

- END -

Committee Vote:
Yes 8, No 0.

531005SC.ssc

MONTANA SENATE
2003 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 3-13-03 BILL # HB14 AMENDMENT # _____

MOTION: Sen Perry moved to Reconsider HB 14.

NAME	AYE	NO
SEN. BRENT CROMLEY		✓
SEN. AUBYN CURTISS	✓	
SEN. JEFF MANGAN		
SEN. JERRY O'NEIL	✓	
SEN. GERALD PEASE		✓
SEN. GARY PERRY	✓	
SEN. MIKE WHEAT		✓
SEN. DAN MCGEE, VICE CHAIRMAN	✓	
SEN. DUANE GRIMES, CHAIRMAN	✓	

5 3

DATE March 13, 2003

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 222 - HB 224 - HB 240

HB 2516

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Brad Walsh	723-8911	DOC	222	✓	
MONTY LETELLIER	723-8911	DOC	222	✓	
Bill Johnston	544-2586	M. H. S.	256	✓	
Bill Slaughter	444-3911	DO	222	✓	
Chad Field	444-7892	DOC	222	✓	
Cathy Gordon	444-7916	DOC	222	✓	
DIANA KOCH	444-9593	DOC	222	✓	
Beth McLaughlin	841-2964	Supreme Ct	224	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
2003 LEGISLATURE
JUDICIARY COMMITTEE
ATTENDANCE

DATE 3-14-03

NAME	PRESENT	EXCUSED	ABSENT
SEN. BRENT CROMLEY		✓	
SEN. AUBYN CURTISS	✓		
SEN. JEFF MANGAN	✓		
SEN. JERRY O'NEIL	✓		
SEN. GERALD PEASE	✓		
SEN. GARY PERRY	✓		
SEN. MIKE WHEAT	✓		
SEN. DAN MCGEE, VICE CHAIRMAN	✓		
SEN. DUANE GRIMES, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 211** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Dan McGee

And, that such amendments read:

1. Title, lines 7 through 9.
Following: "MEMBERS;" on line 7
Strike: remainder of line 7 through "MONTANA;" on line 9

2. Page 1, line 24 through line 26.
Following: "board." on line 24
Strike: remainder of line 24 through "MONTANA." on line 26

3. Page 6, line 10.
Following: "**adopt rules**"
Insert: "**-- purpose for training**"
Following: "**rules.**"
Insert: "(1)"

4. Page 6, line 16.
Following: line 15
Insert: "(2) The legislature finds that American Indians incarcerated in state prisons constitute a disproportionate percentage of the total inmate population when compared to the American Indian population percentage of the total state population. The training of board members regarding American Indian culture and problems is necessary in order for the board to deal appropriately with American Indian

Committee Vote:
Yes 9, No 0.

inmates appearing before the board."

- END -

SENATE STANDING COMMITTEE REPORT

March 14, 2003

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 224** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Jerry O'Neil

- END -

Committee Vote:
Yes 7, No 2.

541256SC.ssc

88

SENATE STANDING COMMITTEE REPORT

March 14, 2003

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 350** (third reading copy - blue) **be concurred in as amended**.

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Brent Cromley

And, that such amendments read:

1. Title, line 5.
Following: "DRUGS"
Strike: ","
Insert: "OR"

2. Title, line 5 through line 6.
Following: "PARAPHERNALIA" on line 5
Strike: remainder of line 5 through the first "DRUGS" on line 6

3. Page 1, line 30.
Following: "PARAPHERNALIA;"
Insert: "or"

4. Page 2, line 1.
Strike: subsection (j) in its entirety
Renumber: subsequent subsection

- END -

Committee Vote:
Yes 8, No 0.

541303SC.ssc

SENATE STANDING COMMITTEE REPORT

March 14, 2003

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 402** (third reading copy -- blue) **be concurred in.**

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Gary Perry

- END -

Committee Vote:
Yes 8, No 0.

541258SC.ssc

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 478** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Mike Wheat

And, that such amendments read:

1. Title, line 8 and 9.
Following: "PROVIDING" on line 8
Strike: remainder of line 8 through "AND" on line 9

2. Page 3, line 22 through line 23.
Following: "61-5-217" on line 22
Strike: remainder of line 22 through "ISSUED" on line 23

3. Page 4, line 23.
Strike: section 3 in its entirety
Renumber: subsequent section

4. Page 4, line 26.
Following: "committed"
Insert: "on or"

- END -

Committee Vote:
Yes 8, No 0.

541304SC.ssc

SENATE STANDING COMMITTEE REPORT

March 14, 2003

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 578** (third reading copy -- blue) **be concurred in.**

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Jeff Mangan

- END -

Committee Vote:
Yes 7, No 0.

MONTANA SENATE
2003 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 3.14.03 BILL # HB 197 AMENDMENT # _____

MOTION: _____

Indef. Postpone

NAME	AYE	NO	
SEN. BRENT CROMLEY		✓	Proxy
SEN. AUBYN CURTISS	✓		
SEN. JEFF MANGAN		✓	
SEN. JERRY O'NEIL	✓		
SEN. GERALD PEASE		✓	
SEN. GARY PERRY	✓		
SEN. MIKE WHEAT		✓	
SEN. DAN MCGEE, VICE CHAIRMAN	✓		
SEN. DUANE GRIMES, CHAIRMAN	✓		
	5	4	

PROXY VOTE

I, THE UNDERSIGNED, HEREBY AUTHORIZE Mike Knott TO VOTE MY PROXY ON ANY ISSUE BEFORE THE SENATE Judiciary Comm. COMMITTEE MEETING HELD ON 3/14/03, 2003.

Senator

Crowley — Judiciary

	HB	256	Campus Security	NO
	HB	224	Standing Masters	NO
	HB	66	Ab in bankruptcy	YES
	HB	197	Driver License Laws	YES
	HB	155	Voting System	YES
	HB	199	Posting Denied License	YES
✓	HB	211	Parole Board - sex amendments	YES
✓	HB	350	MHP re drugs -	YES
✓	HB	402	Penalties for DUI	YES
✓	HB	478	Driver License Suspension	YES
	HB	480	Failure to Report accidents	YES
	HB	222	DOC's bill	YES

DATE March 14-2003

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 127 - HB 578 - HB 618

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Dan Smodel	454-6033	Cascade County Sheriff's Office	HB618	✓	
Robert Throssell	459 6865	MT Magistrates Assoc	HB578	✓	
Julie Ippolito	431-3449	MADD	HB618	X	
Beth Satre	443-7794	MT Coalition Against Domestic & Sexual Violence	HB578		Info
Virginia Colette	585-1492	Gal Co DUI Task Force	HB618		
Catrin Collette	586-5286		HB618		
Ali Bovingdon	444-5876	Dept. of Justice	HB578	✓	
Jim Smith		County Attys	HB578	✓	
JIM KEMBEL	442-8684	MACOP MT ASSOCIATION OF CHIEFS OF POLICE	HB578	✓	
Kristi Blaz	442-7450	MT Baldwin Wh.	HB578	X	
JIM KEMBEL	442-8684	Self	HB578	X	
Charles Brooks	698-2380	M/Foam Fire Inc	-	-	-

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
2003 LEGISLATURE
JUDICIARY COMMITTEE
ATTENDANCE

DATE 3-20-03

NAME	PRESENT	EXCUSED	ABSENT
SEN. BRENT CROMLEY	✓		
SEN. AUBYN CURTISS	✓		
SEN. JEFF MANGAN	✓		
SEN. JERRY O'NEIL	✓		
SEN. GERALD PEASE	✓		
SEN. GARY PERRY	✓		
SEN. MIKE WHEAT	✓		
SEN. DAN MCGEE, VICE CHAIRMAN	✓		
SEN. DUANE GRIMES, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

March 20, 2003

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 222** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Senator Duane Grimes, Chair

To be carried by Senator Duane Grimes

And, that such amendments read:

1. Page 12, line 15.
Following: line 14
Insert: "NEW SECTION. **Section 6. Coordination instruction.** If House Bill No. 29 and [this act] are both passed and approved, then [section 1 of House Bill No. 29], amending 53-30-402, is void."
Renumber: subsequent section

- END -

Committee Vote:
Yes 9, No 0.

SENATE STANDING COMMITTEE REPORT

March 20, 2003
Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 317** (third reading copy -- blue) **be concurred in as amended**.

Signed: *Senator Duane Grimes, Chair*

To be carried by Senator Brent Cromley

And, that such amendments read:

1. Page 2, line 3 through line 4.
Following: "affected" on line 3
Strike: remainder of line 3 through "shelter" on line 4

2. Page 2, line 4.
Following: ";"
Strike: "and"

3. Page 2, line 5.
Following: line 4
Insert: "(b) require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and"

4. Page 2, line 5.
Strike: "(b)"
Insert: "(c)"

- END -

Committee Vote:
Yes 9, No 0.

591533SC.ssc

Amendments to House Bill No. 222
3rd Reading Copy

For the Senate Judiciary Committee

Prepared by Valencia Lane
March 20, 2003 (1:44pm)

1. Page 12, line 15.
Following: line 14
Insert: "NEW SECTION. **Section 6. Coordination instruction.** If House Bill No. 29 and [this act] are both passed and approved, then [section 1 of House Bill No. 29], amending 53-30-402, is void."
Renumber: subsequent section

- END -

Amendments to House Bill No. 317
3rd Reading Copy

For the Senate Judiciary Committee

Prepared by Valencia Lane
March 20, 2003 (1:49pm)

1. Page 2, line 3 through line 4.
Following: "affected" on line 3
Strike: remainder of line 3 through "shelter" on line 4

2. Page 2, line 4.
Following: ";"
Strike: "and"

3. Page 2, line 5.
Following: line 4
Insert: "(b) require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and"

4. Page 2, line 5.
Strike: "(b)"
Insert: "(c)"

- END -

DATE March 20 - 2003

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 317 - HB 331 - HB 453

HB 579

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Mike McElwee	846-1550	BOC	453	✓	
GILDA CLANCY	431-8665	MSSA & MWSA	579	✓	
R.P. Donovan	4770	MTech			
Al Smith	4433114	MTLA	HB579	Information	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY